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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,904	09/26/2005	Giovanni Bocola	1011-769	4099
47888 7590 05/22/2008 HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036				
EXAMINER HYLTON, ROBIN ANNETTE				
ART UNIT 3781		PAPER NUMBER		
MAIL DATE 05/22/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,904

Applicant(s)

BOCOLA, GIOVANNI

Examiner

ROBIN HYLTON

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3781

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "said recessed portion has such a longitudinal extension as not to project from said opened bottom of said closure body" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show "said recessed portion has such a longitudinal extension as not to project from said opened bottom of said closure body" as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply

to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The amendment filed February 11, 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "auxiliary container 10 which, has a longitudinal extension as not to project from the opened bottom face of the cylindric body 2".

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

4. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no support in the originally filed specification, including the drawings, to support the new limitation of "said recessed portion has such a longitudinal extension as not to project from said opened bottom of said closure body". The drawings do not support this limitation since there is no cross-sectional view illustrating the closure as now claimed.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon (WO 03/037739) in view of Gach (US 4,807,769).

Dixon discloses a closure element (1) comprising a cylindric closure body defining a plug portion (2) to be fitted in a closure relationship on a neck of a container (5), said body having an inner central recessed portion providing an auxiliary container, said closure body having an opened top and an opened bottom and a mantle portion having an inner surface including an inner coupling thread engageable with a corresponding outer coupling thread of said container neck, said closure element further comprising an integral closure cover having an inner surface and coupled to said body by an integral foot element operating as a hinge. Dixon is silent regarding the recessed portion having longitudinal extension as not to project from said opened bottom of said closure body and wherein said recessed portion is delimited, at a top thereof, by a circular rim, which can be engaged in a circular slot formed in said inner surface of said closure cover.

Gach discloses a closure element comprising a cylindric closure body (22) having an opened top and an opened bottom, a mantle (42) with inner engagement structure (14) for engaging the container neck, an integral closure cover having an inner surface and coupled to said body by an integral foot element operating as a hinge, and a circular rim (40) surrounding

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the opened top which can be engaged in a circular slot formed in said inner surface of said closure cover. Gach further discloses a recessed portion having longitudinal extension that does not project from said opened bottom of said closure body.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a circular rim projecting upwardly surrounding the opened top of the closure body which can be engaged in a circular slot formed in said inner surface of said closure cover to provide a pouring spout on the closure body and sealing arrangement therebetween and to form the recessed portion so as to not project from the opened bottom of the closure body to decrease the amount of material used to form the closure element.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pennell (GB 2.390.361) in view of Gach and Dutt et al. (US 4,637,519).

Pennell discloses a closure element (14) for a container (20), said closure element comprising a cylindric closure body defining a plug portion to be fitted in a closure relationship on a neck of said container, said body having an inner central recessed portion providing an auxiliary container (20), said closure body having an opened top *and* an opened bottom and a mantle portion (16) having an inner surface including an inner coupling thread (see page 4, paragraph 1) engageable with a corresponding outer coupling thread of said container neck, said closure element further comprising an integral closure cover (18) having an inner surface and coupled to said body by an integral foot element operating as a hinge, wherein said recessed portion has such a longitudinal extension as not to project from said opened bottom of said closure body. Pennell is silent regarding the recessed portion being delimited, at a top thereof, by a circular rim, which can be engaged in a circular slot formed in said inner surface of said closure cover.

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Gach discloses a closure element comprising a cylindric closure body (22) having an opened top and an opened bottom, a mantle (42) with inner engagement structure (14) for engaging the container neck, an integral closure cover having an inner surface and coupled to said body by an integral foot element operating as a hinge, and a circular rim (40) surrounding the opened top of the closure body which can be engaged in a circular slot formed in said inner surface of said closure cover.

Dutt discloses a closure element having a sealing flange created by a slot in the inner surface of the closure cover, said sealing flange engaging a foil membrane covering the container opening.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a circular rim surrounding the opened top of the closure body which can be engaged in a circular slot formed in said inner surface of said closure cover and to provide the inner most portion of the slot so as to engage the sealing membrane without causing premature rupture thereof to the closure element of Pennell. Doing so would provide a pouring spout on the closure element while allowing for fluid tight re-sealing of the recessed portion.

Response to Arguments

8. Applicant's arguments with respect to claim 10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

11. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

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12. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

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